D. Practicable. Available and feasible considering cost, existing technology and logistics based on the overall purpose of the project.

E. Subject wildlife. Wildlife species for which an area has been designated as significant wildlife habitat.

3. General standards applicable to all activities

A. Avoidance. An activity that would degrade the significant wildlife habitat, disturb the subject wildlife, or affect the continued use of the significant wildlife habitat by the subject wildlife, either during or as a result of the activity, will be considered to have an unreasonable impact if there is a practicable alternative to the project that would be less damaging to the environment.

B. Minimal alteration. Alteration of the habitat and disturbance of subject wildlife must be kept to the minimum amount necessary by, among other methods, minimizing the size of the alteration, the duration of the activity, and its proximity to the significant wildlife habitat and subject wildlife. Temporary structures must be used instead of permanent structures wherever possible when they would be more protective of the significant wildlife habitat or subject wildlife.

C. No unreasonable impact. Even if the activity has no practicable alternative, and the applicant has minimized the proposed alteration as much as possible, the application will be denied if the activity will have an unreasonable impact on protected natural resources or the subject wildlife. "Unreasonable impact" means that one or more of the standards of the NRPA at 38 M.R.S.A. § 480-D will not be met. In making this determination, the department considers the area of the significant wildlife habitat affected by the activity, including areas beyond the physical boundaries of the project and the cumulative effects of frequent minor alterations of significant wildlife habitats.

In order to meet the "harm to habitats; fisheries" standard at 38 M.R.S.A. § 480-D(3), the following requirements must be met.

(1) Unreasonable degradation, disturbance, or effect. The activity may not unreasonably degrade the significant wildlife habitat, unreasonably disturb subject wildlife, or unreasonably affect the continued use of the site by the subject wildlife.

A specific impact may require mitigation on-site or within close proximity to the affected significant wildlife habitat in order to lessen the severity of the impact. For example, altering a portion of a shorebird feeding area that is providing critical habitat for migratory shorebirds will likely require mitigation on-site to ensure that potential effects of the proposed activity are reduced. Mitigation methods may include the implementation of a buffer enhancement plan, deed restriction or other methods as determined by the department.

(2) Timing. The department may require that construction activities occur during a time when impacts on protected habitats, wildlife, fisheries and aquatic life will be minimized, such as outside of any critical nesting or breeding periods or similar critical periods, depending on the specific habitat and species. For example, an activity that could potentially cause sedimentation, such as excavation, may not be carried out during times of the year when fish are spawning. This requirement must be met unless the work can only practically be

completed at that time, and it is determined by the department that the impacts to the protected natural resource will be short term, and will not result in permanent harm to fish, wildlife, or marine resources.

D. Compensation. Compensation is the off-setting of a lost habitat function with a function of equal or greater value. The goal of compensation is to achieve no net loss of habitat functions and values. Every case where compensation may be required is unique due to differences in habitat type and geographic location. For this reason, the method, location, and amount of compensation work necessary is variable.

(1) When required. Compensation is required when the department determines that an impact to significant wildlife habitat will cause habitat functions or values to be lost or degraded as identified by the department. This determination may be based on the department's or the Department of Inland Fisheries & Wildlife's evaluation of the project, which may include an evaluation of appropriate information from other sources.

(2) Types of compensation. Compensation may include one or more of the following methods.

(a) A compensation project may be required by the department. Habitat compensation may include the restoration, enhancement or preservation of in-kind significant wildlife habitat or uplands or wetlands adjacent to such habitat. The site of the compensation project must provide significant wildlife habitat functions that might otherwise be degraded by unregulated activity, be located within the affected habitat or within similar habitat located within close proximity to the affected habitat, and the site must be preserved. If habitat priorities have been established at a local, regional or state level, the applicant shall consider those priorities in devising a compensation plan. Directional buffers may also be used in some instances to off-set impacts.

(b) In lieu of a compensation project, wholly or in part, payment of a compensation fee into the "Natural Resources Mitigation Fund" may be allowed by the department. The department is authorized to develop an in lieu fee compensation fee program for use in cases of impacts to certain types of significant wildlife habitat. See 38 M.R.S.A. § 480-Z(3).

(3) Compensation amounts. The amount of compensation required to replace lost functions depends on a number of factors including: the type of habitat to be altered; the size of the alteration activity; the functions of the habitat to be altered; and the type of compensation to be used. Compensation as described in Section 3(D)(2)(a) must meet the following ratios of square footage or acreage at a minimum (area restored, enhanced, created or preserved/area impacted), unless the department finds that a different ratio is appropriate to directly off-set habitat functions to achieve an equal or higher net benefit for habitat:

(a) 2:1 for restoration, enhancement, or creation;

(b) 8:1 for preservation, including adjacent upland or wetland habitat.

(4) Waiver. The department may waive the requirement for an assessment of habitat functions and values, compensation, or both. The department may waive the requirement for an assessment of the habitat if the department already possesses the information necessary to

determine the functions and values of the area proposed to be altered. The department may waive the requirement for compensation if it determines that the impact to habitat functions and values from the activity will be insignificant.

E. Seasonal factors. When determining the significance of a wildlife habitat or impact from a proposed activity, seasonal factors and events that temporarily reduce the numbers and visibility of plants or animals, or obscure the topography and characteristics of a habitat such as a period of high water, snow and ice cover, erosion event, or drought are taken into account. Determinations may be deferred for an amount of time necessary to allow assessment of the resource without such seasonal factors.

4. Pre-application and pre-submission meetings

A. Purpose. The pre-application meeting between the applicant and the department is an opportunity for the applicant to determine the statutory and regulatory requirements that apply to a specific activity. The purpose of this meeting is to identify issues, processing times, fees and the types of information and documentation necessary for the department to properly assess the activity. The pre-submission meeting is an opportunity to review the assembled application to ensure that the necessary types of information have been included prior to filing the application.

NOTE: Activities requiring an NRPA permit are described at 38 M.R.S.A. § 480-C. Exemptions are described at 38 M.R.S.A. § 480-Q.

B. Submissions and scheduling. The following information and items must be submitted prior to scheduling a pre-application meeting with the department.

(1) Sketch plan. A sketch plan of the site showing the proposed activity, adjacent structures and features, property lines, and the significant wildlife habitat, with all distances and dimensions approximately to scale.

(2) Location map. A map showing the location of the proposed project site in relation to major roads and landmarks.

(3) Description of activity. A brief description of the activity including its dimensions.

(4) Description of significant wildlife habitat. A description of the significant wildlife habitat to be altered.

(5) Description of probable impacts. A description of probable impacts of the activity on the subject wildlife, significant wildlife habitat, and any other protected natural resources.

(6) Photographs. Photographs of the project area showing its characteristics.

5. Submission requirements. The applicant shall submit evidence that affirmatively demonstrates that the activity will meet the standards of the NRPA and this chapter including, but not limited to, the information listed below. Because of the site-specific nature of activities and potential impacts to significant wildlife habitat, the department may, on a case-by-case basis, require more or less information than specified in this section in order to determine whether the standards will be met.

1128

Y. Subcatchment. An area of a project site with a unique flow path to a specific point.

Z. Two (ten, twenty-five)-year, 24-hour storm. A precipitation event with a 50% (for two-year), 10% (for ten-year), or 4% (for 25-year) probability of being equaled or exceeded during any twenty-four hour period during any given year.

AA. Watershed. The land area that drains, via overland flow, drainageways, waterbodies, or wetlands to a given waterbody or wetland.

BB. Wetlands. Coastal and freshwater wetlands as defined in the Natural Resources Protection Act, 38 M.R.S.A. § 480-B.

4. Stormwater standards. This section describes the stormwater standards that apply to a project disturbing one acre or more, or to a modification of any size as described in Section 16 of this chapter. There are six categories of stormwater standards: basic, general, phosphorus, flooding, urban impaired stream, and other. More than one standard may apply to a project. In this situation, the stricter standard is applied as determined by the department. For example, a project may be located in a stream watershed, and the stream may drain to a lake. The standards for the particular stream and lake are compared, and the stricter standard is applied as determined by the department.

A. Basic standards

(1) When the basic standards must be met. A project disturbing one acre or more must meet the basic standards. Basic standards are specified in Appendices A, B, and C of this chapter and address erosion and sedimentation control, inspection and maintenance, and housekeeping, respectively.

A project qualifies for a stormwater permit by rule (PBR) described in Section 7, and therefore need only meet basic standards, if it results in one or more acres of disturbed area and the following.

(a) Lakes most at risk and urban impaired streams. Less than 20,000 square feet of impervious area and 5 acres of developed area in the direct watershed of a lake most at risk or urban impaired stream; and
(b) All other watersheds. Less than one acre of impervious area and five acres of developed area in any other watershed.

(2) Grading or other construction activity. Grading or other construction activity on any site disturbing one acre or more may not impede or otherwise alter drainageways to have an unreasonable adverse impact on a protected natural resource.

B. General standards. General standards apply as described below in addition to the basic standards described in Section 4(A).

(1) When general standards must be met. A project disturbing one acre or more and resulting in any of the following must meet the general standards described below in Section (4)(B)(2).

(a) Urban impaired streams. 20,000 square feet or more of impervious area, or 5 acres or more of developed area, in the direct watershed of an urban impaired stream; or

(b) Other stream, coastal and freshwater wetland watersheds. One acre or more of impervious area, or 5 acres or more of developed area, in any other stream, coastal, or wetland watershed.

Some projects in lake watersheds have the option to meet general standards in lieu of the phosphorus standards as described in Section 4(C) below.

(2) Description of general standards. To meet the general standards, a project's stormwater management system must include treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater, and mitigate potential temperature impacts. This must be achieved by using one or more of the following methods to control runoff from no less than 95% of the impervious area and no less than 80% of the developed area that is impervious or landscaped. Where treatment of 95% of the impervious area is not practicable, the department may allow treatment on as low as 90% of the impervious area if the applicant is able to demonstrate that treatment of a greater depth of runoff than specified in the standards will result in at least an equivalent amount of overall treatment for the impervious area.

The department may, on a case-by-case basis, consider alternate treatment measures to those described in this section. An alternate treatment measure must provide at least as much pollutant removal as the treatment measures listed below and, unless otherwise approved by the department, as much channel protection and temperature control.

If a project is not in an urban impaired stream watershed, the department may allow the portion of a project's impervious or developed acreage that must be treated to be reduced through mitigation by eliminating or reducing an off-site or on-site impervious stormwater source (see Section 6(B).

NOTE: The department strongly encourages applicants to incorporate low-impact development (LID) measures where practicable. LID addresses avoidance of stormwater impacts by minimizing developed and impervious areas on the project site. LID project design considers the location of any protected natural resources, and maintaining natural drainage patterns and pre-construction time of concentration. If practicable, LID incorporates runoff storage measures dispersed uniformly throughout a site rather than single point collection of stormwater through conventional end-of-pipe structures.

(a) Wetpond with detention above the permanent pool. A stormwater management system using detention to control runoff must detain, above a wetpond's permanent pool, a runoff volume equal to 1.0 inch times the subcatchment's impervious area plus 0.4 inch times the subcatchment's landscaped area. If located within a stream watershed, a pond needs to discharge through an underdrained gravel outlet. A wetpond must have a storage volume below the permanent pool elevation at least equal to 1.5 inches times the subcatchment's impervious area plus 0.6 inch times the subcatchment's non-impervious developed area, a mean depth of at least three feet, and a length to width ratio of 2:1 or greater.

(b) Filter. A detention structure using filters to control runoff must detain a runoff volume equal to 1.0 inch times the subcatchment's impervious area plus 0.4 inch times the subcatchment's developed area that is landscaped and discharge it solely through an underdrained vegetated soil filter having a single outlet with a diameter no greater than eight inches, or through a proprietary filter system approved by the department.

(c) Infiltration. A stormwater management system using infiltration to control runoff must retain a runoff volume equal to 1.0 inch times the subcatchment's impervious area plus 0.4 inch times the subcatchment's developed area that is landscaped and infiltrate this volume into the ground. Pre-treatment of stormwater must occur prior to discharge to the infiltration area. The infiltration area must minimize discharge of soluble pollutants to groundwater, and must be maintained to assure that its capacity for infiltration and pollutant removal is unimpaired. An infiltration system serving a development regulated under the Site Location of Development Act may be required to meet additional standards.

Infiltration from a stormwater infiltration system is considered *de minimus* and does not require an individual waste discharge license if the standards in Appendix D are met. For definitions and provisions associated with the Waste Discharge program, see 38 M.R.S.A. §§ 413 *et seq.*, and chapter 520 *et seq.* for waste discharge licensing concerns.

All drywells and subsurface fluid distribution systems must be registered with and meet all other requirements of the Department's Underground Injection Control Program.

(d) Buffers. A stormwater management system using buffers to control runoff must meet the design and sizing requirements described in Appendix F.

(3) Exceptions from the general standards. A project is eligible for an exception from the general standards as follows.

(a) Pretreatment measures. A project that includes measures to pretreat runoff to a filter or infiltration system in a department-approved, flow-through sedimentation device may reduce the runoff volume to each treatment measure described in Section 4(B)(2)(b) and (c) by 25%.

(b) Discharge to the ocean, great pond or a major river segment. A project discharging to the ocean, great pond or a major river segment and using a wetpond to meet the general standards is not required to incorporate treatment storage above the wetpond's permanent pool or to install an underdrain. The underdrain may also be omitted from a wetpond when discharging to a wetland if the department determines that filtering and temperature reduction, normally provided by an underdrain, are not necessary for maintaining the functions of the wetland.

(c) A linear portion of a project. For a linear portion of a project, runoff volume control may be reduced to no less than 75% of the volume from the impervious area and no less than 50% of the developed area that is impervious or landscaped, or the runoff volume to each treatment measure described in Section 4(B)(2) above may be reduced by 25%.

(d) A utility corridor or portion of a utility corridor. A utility corridor or portion of a utility corridor that meets the following criteria is not required to meet General standards.

(i) The project or portion of the project does not include impervious area;
(ii) Disturbed areas are restored to pre-construction contours and revegetated following construction;
(iii) Mowing of the revegetated right–of-way occurs no more than once during any twelve month period; and
(iv) A vegetation management plan for the project has been reviewed and approved by the department.

(e) Stormwater Management Law project including redevelopment. For a project requiring a Stormwater Management Law permit that includes redevelopment of impervious area that was in existence as of November 16, 2005 (the effective date of Chapter 500 revisions), the redevelopment of that impervious area is not required to meet General standards provided the department determines that the new use of the existing impervious area is not likely to increase stormwater impacts resulting from the proposed project's stormwater runoff beyond the level of impact already caused by the runoff from the existing impervious area. The requirements of Appendix D must still be met, if applicable.

(f) Site Location of Development Law project including redevelopment. For a project requiring a Site Location of Development Law permit that includes redevelopment of existing impervious area that was in existence as of November 16, 2005 (the effective date of Chapter 500 revisions), redevelopment of that impervious area is required to meet the general standards to the extent practicable as determined by the department. If the department determines that it is not practicable to make significant progress towards meeting the general standards for the redeveloped impervious area, the department may require off-site mitigation within the same watershed as an alternative for stormwater treatment. The requirements of Appendix D must still be met, if applicable.

C. Phosphorus standards.

(1) When the phosphorus standards must be met. The phosphorus standards apply only in lake watersheds. A project disturbing one acre or more and resulting in any of the following is required to meet the phosphorus standards described in Section 4(C)(2) below.

(a) Lake most at risk watersheds. 20,000 square feet or more of impervious area, or 5 acres or more of developed area, in the direct watershed of a lake most at risk, except that an applicant with a project that includes less than three acres of impervious area and less than 5 acres of developed area may choose to meet the general standards rather than the phosphorus standards if the lake is not severely blooming. Severely blooming lakes are a subset of lakes most at risk as listed in Chapter 502.

(b) Any other lake watershed. One acre or more of impervious area, or 5 acres or more of developed area, in any other lake watershed, except that an applicant with a project that includes less than three acres of impervious area and less than 5 acres of developed area may choose to meet the general standards rather than the phosphorus standards.

(2) Description of phosphorus standards. An allowable per-acre phosphorus allocation for each lake most at risk will be determined by the department. The department's determination is based upon current water quality, potential for internal recycling of phosphorus, potential as a cold-water fishery, volume and flushing rate, and projected growth in the watershed. This allocation will be used to determine phosphorus allocations for a project unless the applicant proposes an alternative per-acre phosphorus allocation that is approved by the department. If the project is a road in a subdivision, only 50% of the parcel's allocation may be applied to the road unless phosphorus export from both the road and the lots is subject to this chapter, in which case the entire allocation for the parcel may be applied.

NOTE: For guidance in calculating per-acre phosphorus allocations and in determining if stormwater phosphorus export from a project meets or exceeds the parcel's allocation, see Volume II of the Maine Stormwater Management BMP Manual.

D. Urban impaired stream standard. If required, the urban impaired stream standard applies in addition to the basic standards, general standards and phosphorus standards described in Sections 4(A), (B) and (C).

(1) When the urban impaired stream standard must be met. If a project located within the direct watershed of urban impaired stream or stream segment listed in chapter 502 results in three acres or more of impervious area or 20 acres or more of developed area, requires review pursuant to the Site Law, or is a Site Law modification of any size as described in Section 16 of this chapter, the urban impaired stream standard must be met.

(2) Description of the urban impaired stream standard. A project in the direct watershed of an urban impaired stream must pay a compensation fee or mitigate project impacts by treating, reducing or eliminating an off-site or on-site pre-development impervious stormwater source as described in Section 6(A). Compensation fees must be paid to the department's compensation fund or to an organization authorized by the department pursuant to the Stormwater Management Law, 38 M.R.S.A. § 420-D(11).

(3) Exception for a project including redevelopment. Redevelopment of an existing impervious area is not required to meet the urban impaired stream standard provided the department determines that the new use of the existing impervious area is not likely to increase stormwater impacts in the proposed project's stormwater runoff beyond the levels already present in the runoff from the existing impervious area.

E. Flooding standard. If required, the flooding standard applies in addition to the basic standards, general standards, phosphorus standards and urban impaired stream standards described in Sections 4(A), (B), and (C).

(1) When the flooding standard must be met. If a project results in three acres or more of impervious area or 20 acres or more of developed area, requires review pursuant to the Site Law, or is a modification of any size as described in Section 16 of this chapter, the flooding standard must be met. Stormwater management systems for these projects must detain, retain, or result in the infiltration of stormwater from 24-hour storms of the 2-year, 10-year, and 25-year frequencies such that the peak flows of stormwater from the project site do not exceed the peak flows of stormwater prior to undertaking the project.

1134

(2) Waiver of the flooding standard. A project is eligible for a waiver from the flooding standard as follows.

(a) Discharge to the ocean, a great pond, or a major river segment. A waiver is available for a project in the watershed of the ocean, a great pond, or a major river segment provided the applicant demonstrates that the project conveys stormwater exclusively in sheet flow, in a manmade open channel, or in a piped system directly into one of these resources. In addition, the department may allow a variance for other rivers, if the department determines that the increase in peak flow from the site will not significantly affect the peak flow of the receiving waters or result in unreasonable adverse impact on a wetland or waterbody.

Prior to requesting a waiver as part of an application, the applicant shall secure drainage easements from any downstream property owners across whose property the runoff must flow to reach the ocean, great pond, or river. The applicant shall also demonstrate that any piped or open-channel system in which the runoff will flow has adequate capacity and stability to receive the project's runoff plus any off-site runoff also passing through the system.

(b) Insignificant increases in peak flow rates from a project site. When requesting a waiver for a project resulting in an insignificant increase in peak flow rates from a project site, the applicant shall demonstrate that insignificant increases in peak flow rates cannot be avoided by reasonable changes in project layout, density, and stormwater management design. The applicant shall also demonstrate that the proposed increases will not unreasonably increase the extent, frequency, or duration of flooding at downstream flow controls and conveyance structures or have an unreasonable adverse effect on protected natural resources. In making its determination to allow insignificant increases in peak flow rates, the department shall consider cumulative impacts. If additional information is required to make a determination concerning increased flow, the department may only consider an increase after the applicant agrees, pursuant to 38 M.R.S.A. § 344-B(3)(B), that the review period may be extended as necessary by the department.

(3) Channel limits and runoff areas. The design of piped or open channel systems must be based on a 10-year, 24-hour storm without overloading or flooding beyond channel limits. In addition, the areas expected to be flooded by runoff from a 10-year or 25-year, 24-hour storm must be designated in the application, and no buildings or other similar facilities may be planned within such areas. This does not preclude the use of parking areas, recreation areas, or similar areas from use for detention of storms greater than the 10-year, 24-hour storm. Runoff from the project may not flood the primary access road to the project and public roads as a result of a 25-year, 24-hour storm.

NOTE: The municipality, the Maine Department of Transportation, or the Maine Turnpike Authority may require a project to meet additional design standards based on the 50-year or 100-year storm. The department recommends that any applicant proposing a project that may cause flooding of a primary access road or public road contact the appropriate entity.

F. Easements and covenants. If a project will require specific off-site areas for the control, disposal, or treatment of stormwater runoff, then these areas must be protected from alteration through easements or covenants according to the following standards.

(1) When an easement is required. The applicant must secure easements from affected property owners when any of the following occur on property not owned by the applicant: A project changes the flow type (for example, converting from sheet flow to channelized flow); the flow channel changes; the flow qualifies for a waiver based on an insignificant increase in peak flow rates pursuant to Section 4(E)(2)(b); or the flow causes or increases flooding.

The department may determine that the expected change in flow, channel or impact is so insignificant as to not require an easement under this chapter. The department may require the applicant to provide evidence that such impacts will not occur or, if they will occur, provide evidence of the extent of the impact and evidence that suitable easements have been obtained.

NOTE: The department's decision to issue a stormwater permit, to require or not require an easement, or to specify the location or width of an easement is not intended to affect other federal, state or local requirements for easements or the availability of legal or equitable remedies for impacts due to stormwater runoff.

(2) Easement specifications and restrictions. The following specifications and restrictions apply to all easements established under this standard.

(a) Land use restrictions. Suitable land-use restrictions must be included in the easements to prevent any activity that might affect drainage to, across, or from the area affected by the easement.

(b) Drainage easements. Drainage easements must include all off-site channels constructed to receive flows from the project and any off-site channels receiving increased peak flow rates from the project. Drainage easements must extend up to, but not include, the channel of any river, stream, or brook accepting flow from the project. Drainage easements must conform with the center line of the drainageway or pipe and must have a minimum width of 30 feet, or 10 feet on each side of the channel or pipe required to accommodate the flow from a 25-year, 24-hour storm, whichever is greater. A reduction in the minimum width may be approved by the department if the full width is not available because of unavoidable physical limitations of the site. However, the minimum width allowed must still be sufficient to avoid an adverse impact on existing uses and to allow access for maintenance and repair.

(c) Flooding easements. Flooding easements must include all off-site areas flooded due to the project's development. These areas include, but are not limited to, those flooded due to the project overloading storm sewers, culverts, stormwater basins, and equivalent utilities with increased runoff; filling existing areas of runoff storage; diverting flows onto off-site properties; and impeding runoff from the project parcel or off-site areas. Flooding easements must conform to the greatest extent of inundation due to the increased runoff from a 25-year, 24-hour storm.

1136

(d) Erosive flows. The flow through the easement or flooding within the easement may not cause erosion of soil or sediment.

(3) Areas conveyed. When the permittee transfers land that contains areas of flow or areas to be flooded as described in (2)(a), (b) and (c), restrictive covenants protecting these areas must be included in any deeds or leases, and recorded at the appropriate county registry of deeds. Also, in all conveyances of such areas and areas containing parts of the stormwater management system, the permittee shall include deed restrictions making the conveyance subject to all applicable terms and conditions of the permit. These terms and conditions must be incorporated by specific and prominent reference to the permit in the deed. All conveyances must include in the restrictions the requirement that any subsequent conveyance must specifically include the same restrictions unless their removal or modification is approved by the department. These restrictions must be written to be enforceable by the department, and must reference the permit number.

(4) Buffers. Buffers must be protected from alteration through deed restrictions or conservation easement to which the department is a party.

NOTE: Suggested templates for deed restrictions and conservation easements for use under the Stormwater Management Law can be found in Appendix G of this chapter.

5. **Other applicable standards.** The following standards apply to a project as described in this section in addition to the basic, general, urban impaired stream, and flooding standards.

A. **Management of stormwater discharges.** A project discharging concentrated stormwater runoff through an open-channel or pipe to any point that is not an open channel, an inlet to a storm drain system, or a natural or man-made impoundment must convert the concentrated flow to sheet flow to prevent erosion of the downstream receiving area. The conversion of concentrated flow to sheet flow must be done using properly designed level spreaders meeting the criteria below.

(1) Discharge to a level spreader. The peak stormwater flow rate to a level spreader due to runoff from a 10-year, 24-hour storm must be less than 0.25 cubic feet per second (0.25 cfs) per foot length of level spreader lip.

(2) Drainage area. The maximum drainage area to the spreader may not exceed 0.10 acre per foot length of level spreader lip.

(3) Length of level spreader. The level spreader length may not be more than 25 feet unless approved by the department.

(4) Siting of level spreader. The level spreader must be sited so that flow from the level spreader will remain in sheet flow until entering a natural or man-made receiving channel.

This standard is not applicable for level spreaders discharging runoff to vegetated buffers used to meet the general standards. Requirements for these level spreaders can be found in Appendix F.

B. **Discharge to freshwater or coastal wetlands.** Stormwater standards for the waterbody must be met before the stormwater enters a wetland, unless otherwise approved by the department or unless the affected area of wetland qualifies for an exemption pursuant to the Natural Resources

Protection Act, 38 M.R.S.A. § 480-Q(17). Wetlands must receive stormwater in the same manner as before the project unless otherwise approved or required by the department. In general, new or increased stormwater discharges into wetlands must be put into sheet flow using level spreaders designed to meet the requirements in Section 5(A). The department may allow alternate stormwater treatment measures if those measures will not unreasonably adversely affect the wetland.

The discharge of runoff to a wetland due to a 2-year storm may not increase the mean storage depth within a wetland more than two inches above pre-development levels for more than 24 hours from the end of the storm event, unless otherwise approved by the department. The department may consider cumulative impacts due to runoff from other projects when applying this standard to any wetland.

C. **Threatened or endangered species.** Additional stormwater standards may apply on a case-by-case basis if the department determines that such standards are necessary to avoid significantly altering the habitat of a threatened or endangered plant or animal species or violating protection guidelines.

NOTE: Title 12 M.R.S.A. § 7755-A prohibits state agencies from issuing a permit that will significantly alter the habitat of any species designated as threatened or endangered species or violate protection guidelines.

D. **Additional controls.** If the department determines that additional controls are necessary to avoid an unreasonable impact on any wetland or waterbody due to pollutants that are not adequately addressed by the standards described in Sections 4 and 5, a stormwater project that results in three acres or more of impervious area or 20 acres or more of developed area, requires review pursuant to the Site Law, or is a modification of any size as described in Section 16 of this chapter may be required to use additional controls. This is a case-by-case determination based upon factors such as the size, nature and intensity of the development, characteristics of the affected natural resource, topography and soils.

For example, stormwater from a metallic mineral mining or advanced exploration activity regulated under the department's regulations, Metallic Mineral Exploration, Advanced Exploration and Mining regulations (06-096 CMR 200), may contain contaminants, such as high concentrations of dissolved metals, or be very acidic or alkaline, for which stormwater best management practices (BMPs) for other commercial or industrial developments do not provide adequate treatment.

E. **Authorization for discharges to public storm sewer systems.** If runoff from a project site will flow to a publicly-owned storm sewer system, then the applicant must obtain authorization from the system's owner to discharge into the system. At its discretion, the department may require the applicant to demonstrate that the system has adequate capacity for any increases in peak flow rates and volumes to the system.

6. **Compensation fees and mitigation credit.** The following applies to projects required to provide mitigation, pursuant to Section 4(D), or where the Department has allowed the applicant to reduce the acreage treated or lower the phosphorus export reduction required to meet the phosphorus standards in Section 4(C) through mitigation. Mitigation eliminates or reduces other off-site sources or pre-development on-site sources, in accordance with the requirements of Sections 6(A) through